

आयकर अपीलीय अधिकरण, सूरत न्यायपीठ, सूरत
IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER AND
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER
आयकर अपील सं./**ITA No. 78/SRT/2025** (AY 2019-20)
(Hybrid hearing)

Shankar Ramkumar Mundra 901, Samruddhi Apartment, Nr. Terapanth Bhavan, City Light Road, Bhaarthana, Surat-395 007 [PAN : AGKPM 9150 F]	बनाम Vs	Income Tax Officer, Ward-2(3)(6) Surat
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

निर्धारिती की ओर से /Assessee by	Shri Rasesh Shah, CA
राजस्व की ओर से /Revenue by	Shri Ajay Uke, Sr-DR
सुनवाई की तारीख/Date of hearing	04.08.2025
उद्घोषणा की तारीख/Date of pronouncement	14.08.2025

Order under section 254(1) of Income Tax Act

PER DINESH MOHAN SINHA, JUDICIAL MEMBER:

1. This appeal by assessee is directed against the order of National Faceless Appeal Centre, Delhi [for short, "NFAC)/Ld. CIT(A)"] dated 26.11.2024 for the assessment year 2019-20, in confirming the penalty under section 272A(1)(d) of Income Tax Act, 1961 ('the Act') on 17.09.2024. The assessee has raised the following grounds of appeal:-

"1. On the facts and circumstances of the case as well as law on the subject, the learned CIT(A) has erred in confirming the action of assessing officer in levying penalty of Rs.10,000/- u/s. 272A(1)(d) of the Act.

2. It is therefore prayed that the above penalty levied by the Assessing Officer and confirmed by the learned CIT(A) may please be deleted.

3. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal"

2. Brief facts Brief facts of the case are that the assessee is an individual and has filed his Return of Income for the AY 2019-20 on 31.10.2019 declaring the total income at Rs Nil after set-off the profit of Rs.13,08,141/- against the carry forward loss of AY 2017-18 & 2018-19, During the year under consideration, the assessee was engaged in a business of wholesale and retail trade of textiles under the trade name "Vinayak Fabrics' Assessee maintains complete books of account which were duly audited under the provisions of section 44AB of the Act. The assessment order was passed u/s. 147 r.w.s. 144 of the Act on 18.03.2024 after making addition of Rs 6,36,79,147/- u/s. 68 of the Act on account of alleged bogus sale transactions. The assessee was not able to comply with the notices issued in the course of assessment proceedings as the assessee was not aware about the assessment proceedings initiated on ITBA portal since the primary and secondary email id i.e., pawansethia200@gmail.com & pawansethia20@gmail.com is of the Chartered Accountant who failed to communicate the same to the assessee. Further, the assessee was dependent on his Chartered Accountant for the compliance of notices.

In the course of penalty proceedings, show cause notice u/s 272A(1)(d) was issued on 18.03.2024 and 07.06 2024 requiring the assessee to show

cause as to why order imposing penalty should not be passed for non-compliance of notice u/s 142(1) dated 08.09.2023 A letter was issued on 19.06.2024 requiring the assessee to furnish a reply to the said notices. In response to the said notice, assessee filed reply vide letter dated 08.07.2024 requesting to drop the penalty proceedings. However, the AO didn't consider the reply of the assessee and passed penalty order after levying penalty u/s 272A(1)(d) to the tune of Rs. 10,000/- for non-compliance of notice dated 08.09.2023.

3. Aggrieved by the order dated 17.09.2024 of the AO, the assessee filed an appeal before Ld. CIT(A). The said appeal was dismissed with following observation:

“12. It is also observed that the appellant did not make any effort to respond during the penalty proceedings, nor has he provided any explanation for the delay or non-compliance during the appellate proceedings. Such conduct demonstrates a casual approach and a lack of commitment to procedural requirements. The appellant's inaction and failure to address the notices reflect a disregard for statutory obligations and for the opportunities provided by both the AO and this office to rectify the non-compliance.

13. It is a well-settled principle that "vigilantibus non dormientibus jura subveniunt"- the law assists those who are vigilant, not those who sleep over their rights. Given the appellant's consistent failure to act within prescribed timelines and the absence of a justified cause for delay, I conclude that there is no sufficient cause for non-compliance.

14. In view of the above considerations, I find no grounds to interfere with the AO's order. The penalty, therefore, stands confirmed.

15. In the result, the appeal of the assessee is hereby dismissed”

4. That the assessee filed an appeal against the impugned order dated 26.11.2024 before us.

5. During the course of argument, the Ld. AR of the assessee submitted the assessee could not comply with the notices because the CA of the assessee did not inform to the assessee about proceedings going on before the Ld. CIT(A) and the assessee was having no knowledge about proceedings. That the Ld. AR prayed for an opportunity to explain the case before the Lower Authority.

6. On the other hand, Ld. Sr-DR for the revenue, relied upon the order of the Ld. CIT(A) and do not object to the prayer of the Ld. AR.

7. We have heard both the parties and perused the material available on record and also perused the order of Ld. CIT(A). We note that several notices have been issued by the Ld. CIT(A), but there was no compliance to the notice by the assessee, because the CA of the assessee did not inform to the assessee about notices. The Ld. CIT(A) disposed off the appeal by an *ex-parte* order without adjudication on merit. In this situation the assessee remained unheard. After considering the facts and circumstances of the case, in the interest of justice, we are of the view that an opportunity should be given to the assessee to present his case before the Lower Authority. We remand the matter back to

the file of Ld. CIT(A) for fresh adjudication on merit after giving due opportunity to the assessee of being heard.

8. In the result, the appeal of the assessee is allowed, for statistical purposes.

Order pronounced in under proviso to Rule 34 of the ITAT Rules, 1963 on 14/08/2025.

Sd/-
(BIJAYANANDA PRUSETH)
लेखा सदस्य/Accountant Member

Sd/-
(DINESH MOHAN SINHA)
न्यायिक सदस्य/Judicial Member

सूरत / Surat Dated: 14/08/2025

Dkp Outsourcing Sr.P.S*

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूरत/ DR, ITAT, SURAT
- गार्ड फाईल/ Guard File

By order/आदेश से,

// True Copy //

सहायक पंजीकार
आयकर अपीलीय अधिकरण, सूरत